

Serial No. 10/510,313**Atty. Doc. No. 2002P03971WOUS**

anticipated by Kuchlin. Claim 17 is rejected under 35 USC 103(a) as being unpatentable over Kuchlin in view of Rathjen.

Election/Restriction:

The Applicants respectfully request reconsideration and withdrawal of the constructive election of claims imposed by the Examiner. The Examiner states in his reasons for imposing the restriction that the newly presented claims "do not share the same special technical features(s) as that of" previously originally presented claims. The Applicants submit that such a requirement for sharing "special technical feature(s)" is vague, and therefore the Examiner has not fulfilled his obligation under MPEP 808.01 that "The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated." The Examiner has not shown how the restricted claims are either independent or distinct, as is required for restriction under the Commissioner's interpretation of 35 USC 121 as explained in MPEP 802.01. The Examiner has not satisfied his burden under MPEP 808.02 for showing that the claims are patentably distinct or that there would be a serious burden on the Examiner if restriction is not required. The Examiner had not stated that the restricted claims represent an improper species, or that they are patentable over the originally presented claims, or that they are an improper combination/subcombination, or that they are an improper process/apparatus combination, etc. Rather, the Examiner cites a lack of sharing "the same special technical features" with originally presented claims, which is a criterion that the Applicants do not understand in view of the law, the regulations or the MPEP.

Further, the Examiner supports the constructive election by comparing "technical features" of dependent claim 29 to those of dependent claim 17. The Applicants agree that the additional limitations specifically delineated in these dependent claims are different, but such is not a basis for restriction, since these two dependent claims are merely directed to different definitions of the same disclosed subject matter, varying in breadth or scope of definition, as described in MPEP 806.03.

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Furthermore, it is submitted that the newly presented claims do, in fact, share many claim limitations with the originally presented claims, and therefore, to the extent that the term "special technical feature" is understood by the Applicants, the restricted claims can be shown not to be independent nor distinct from the originally filed claims. For example, when comparing restricted independent claims 30 and 37 to independent claim 28, we find an extensive overlap of claimed technical features such as web server kernels, process control modules, communication via a network, a client on the network, etc., etc. etc., all of which are interlinked to perform the function of controlling a production machine via a network such as the Internet. These claims would not support separate patents, and under MPEP 803, the Examiner must examine them on the merits unless the search and examination of all of the claims cannot be made without serious burden.

Accordingly, reconsideration and withdrawal of the constructive election is requested, and a new Office Communication addressing all of the pending claims is respectfully requested.

Claim rejections under 35 USC 102 and 103:

All of the prior art rejections rely upon the Kuchlin article "HighRobot: Telerobotics in the Internet". The system of Kuchlin describes a variation of the admitted prior art wherein a dedicated processor is used to control a production machine, and that dedicated processor is then connected to a network such as the Internet via some form of communications link. See Figure 1 of Kuchlin where a Universal Control Multiprocessor performs the functions necessary for control of the Robot Arm, and the Universal Control Multiprocessor is then in communication with the Internet via a separate Internet server. Even in Section 3.2-4 where Kuchlin describes adapting his *HighRobot* control for Internet accessibility, he requires the installation of a separate Web-Server in addition to the *HighRobot* control computer system.

By contrast, the present invention eliminates the need for a dedicated processor for control of the production machine by utilizing a Web server (e.g. item 3 of FIG. 1) to perform the robot control functions. Accordingly, Kuchlin teaches away from the present invention and thus can

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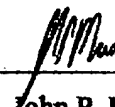
not properly support a rejection under 35 USC 102. The addition of the Rathjen reference does not remedy this deficiency, and therefore the combination of Kuchlin and Rathjen does not support the rejection under 35 USC 103.

Conclusion

The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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